

TORKILDSON, KATZ, FONSECA,
MOORE & HETHERINGTON,
Attorneys at Law, A Law Corporation

JEFFREY S. HARRIS, 2718-0
DANIEL G. MUELLER, 6516-0
700 Bishop Street, 15th Floor
Honolulu, HI 96813
Telephone: (808) 523-6000

Attorneys for Respondent
H&W FOODS ACQUISITION CORP.
DBA PALAMA MEAT CO. INC.

HAWAII LABOR RELATIONS BOARD

STATE OF HAWAII

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

v.

H&W FOODS ACQUISITION CORP. DBA
PALAMA MEAT CO. INC.,

Respondent.

CASE NO. OSAB 2002-21
(OSHCO ID O2726)
(Inspection No. 304217839)

STIPULATED SETTLEMENT AND
ORDER

STIPULATED SETTLEMENT AND ORDER

COMES NOW, the Complainant, Director, Department of Labor and Industrial Relations (hereafter "Director"), by and through her attorneys, Earl Anzai, Attorney General, and Herbert B.K. Lau, Deputy Attorney General, and the Respondent, H&W Foods Acquisition Corp., dba Palama Meat Co., Inc. (hereafter "H&W Foods"), by and through its attorneys, Torkildson, Katz, Fonseca, Moore & Hetherington and Jeffrey S. Harris and Daniel G. Mueller, and hereby stipulate and agree as follows:

WHEREAS, the State of Hawai‘i Division of Occupational Safety and Health (hereafter “HIOSH”) inspected the worksite of H&W Foods, located at 2029 Lauwiliwili Street, Kapolei, Hawai‘i 96707, from March 22, 2002 through March 28, 2002; and

WHEREAS, as a result of its investigation, HIOSH issued a Citation and Notification of Penalty (the “Citation”) to H&W Foods on April 29, 2002; and

WHEREAS, H&W Foods timely filed a Notice of Contest of the Citation and Notification of Penalty on May 13, 2002.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES, that:

1. The Hawai‘i Labor Relations Board (hereafter “Board”) has jurisdiction over this matter pursuant to Haw. Rev. Stat. §§ 26-20 (2002) and 396-11 (1992).
2. At all relevant times, Respondent maintained a workplace at 2029 Lauwiliwili Street, Kapolei, Hawai‘i, 96707, and at all relevant times, Respondent was an employer, as defined in Section 396-3, H.R.S., and employed employees, as defined in Section 396-3, H.R.S., and was therefore subject to the requirements of Chapter 396, H.R.S., the Hawai‘i Occupational Safety and Health Law.
3. HIOSH will amend the Citation to eliminate Items 2b and 3b.
4. HIOSH will amend the Citation to reduce the penalty to NINE THOUSAND DOLLARS (\$9,000.00).
5. H&W Foods will pay the reduced penalty of \$9,000.00 within twenty-eight (28) business days following the issuance of the Hawai‘i Labor Relations Board’s Order approving of this Stipulated Settlement.

6. Except for the stipulated amendments described above, the Citation issued on April 29, 2002 is confirmed in all other respects, and upon approval by the Board, this Stipulated Settlement and the Citation, as amended, shall become a final order of the Director.

7. By entering into this Stipulated Settlement, Respondent does not admit that it violated the cited standards. As provided by Hawai'i Revised Statutes § 396-14, no record, determination or report obtained, received or prepared in connection with the inspection underlying the instant proceeding shall be used as evidence or as discovery in any civil action growing out of any matter related to this proceeding except that such records may be used to enforce the terms and conditions of this Stipulated Settlement or the Hawai'i Occupational Safety and Health Law.


8. H&W Foods affirmatively states that, as indicated in the Citation and Notification of Penalty, it has abated the violations set forth therein.

9. Nothing in this Stipulated Settlement and Order shall relieve H&W Foods from complying with Haw. Rev. Stat. Chapter 396 or the related administrative rules.


10. Nothing in this Agreement shall prevent the Director or HIOSH from taking any action against future acts or practices by H&W Foods which may be alleged to be violations of Haw. Rev. Stat. Chapter 396.

IN WITNESS WHEREOF, the parties cause their signatures below.

DATED: Honolulu, Hawai'i, October 22, 2002.

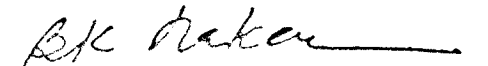


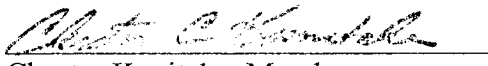
H&W Foods Acquisition Corp.
dba Palama Meat Company
by its attorney, Jeffrey S. Harris

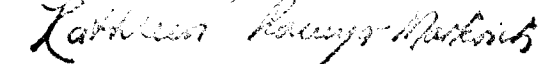
DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS


Herbert B.K. Lau
Deputy Attorney General
Attorney for Director, Department of Labor
and Industrial Relations

APPROVED AND SO ORDERED:


Brian Nakamura, Chairman


Chester Kunitake, Member


Kathleen Racuya-Markrich, Member

HAWAII LABOR RELATIONS BOARD

ORDER NO. 16

DATED: October 24, 2002

Director, Department of Labor and Industrial Relations v. H&W Foods Acquisition Corp. dba Palama Meat Company, Case No. OSAB 2002-21 (Stipulated Settlement and Order)